

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

175 West Fifth Street, Second Floor, San Bernardino, CA 92415-0490

• (909) 387-5866 • FAX (909) 387-5871

E-MAIL: [lafco@lafco.sbcounty.gov](mailto:lafco@lafco.sbcounty.gov)

[www.sbclafco.org](http://www.sbclafco.org)

---

**DATE:** April 4, 2003

**FROM:** KATHLEEN ROLLINGS-McDONALD, Acting Executive Officer

**TO:** LOCAL AGENCY FORMATION COMMISSION

---

**SUBJECT: AGENDA ITEM #7:** LAFCO 2915 -- City of San Bernardino  
Reorganization to include Annexation No. 357 (Three  
Unincorporated Islands)

---

**INITIATED BY:**

City Council Resolution, City of San Bernardino

**RECOMMENDATION:**

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct the Clerk to file a Notice of Exemption within five days of this action;
2. Approve LAFCO #2915 – City of San Bernardino Reorganization to include Annexation No. 357 as island annexations, as such are defined in Government Code Section 56375.3, and with the condition that the City's 8% utility tax will not be extended to these areas upon annexation;
3. Waive the protest proceedings, as permitted by Government Code Section 56375.3; and,
4. Adopt LAFCO Resolution #2769 setting forth the Commission's findings and determinations concerning this proposal.

**BACKGROUND:**

LAFCO 2915 proposes annexation of three islands of unincorporated territory within the northeastern City of San Bernardino sphere of influence. The reorganization, as initiated by the City, is generally located within the area commonly known as “Mountain Shadows” and has been initiated as a single application as allowed by Government Code Section 56375, Subsection (a) (3). The location of the three separate islands, comprising a total of 77.76 +/- acres, is generally defined as follows:

**Island 1** (identified as Parcel 1) comprises 33.38 +/- acres and is totally surrounded by City of San Bernardino boundaries. The area is generally north of Orchid Drive and east of Bradford Avenue, and includes portions of Cymbidium Court, Vanda Lane, Cienega Drive, Denair Avenue, La Praix Avenue, Oleander Drive, Piedmont Drive, Croydon Street, and 28th Street.

**Island 2** (identified as Parcel 2) comprises 32.76 +/- acres and is totally surrounded by City of San Bernardino boundaries. The area is generally north of Orchid Drive and east and west of Palm Avenue, and includes portions of Pleasant Hill Drive, Baldrige Canyon Drive, Baldrige Canyon Court, Spring Meadows Lane, Peacock Avenue, Center Street, and Pumalo Street.

**Island 3** (identified as Parcel 3) comprises 11.62 +/- acres and is totally surrounded by City of San Bernardino boundaries. The area is generally bordered on the north by Highland Avenue, on the east by Orange Street, on the south by a combination of Love Lane and parcel lines, and on the west by parcel lines fronting Pepper Street, and includes a portion of La Verne Avenue.

Location and vicinity maps are included as Attachment #1 to this report.

In the staff's view, the proposal before the Commission is essentially a ministerial action. Government Code Sections 56375(a) and 56375.3 require the Commission to approve the annexation of island territory if several basic findings are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the study area to benefit from or use municipal services from the City. Copies of these Code Sections are included for Commission review (Attachment #2). A response to these findings is presented below and the staff suggests that these findings are clear and easily made in this case.

Aside from the findings outlined below, the only discretionary issue in front of the Commission is whether it wishes to hold a protest hearing upon

approval. If the Commission chooses to waive the protest hearing, it may either approve or terminate these proceedings at this hearing. This is a policy question for the Commission; however, staff does not recommend that the Commission schedule this matter for a protest hearing for the following reasons:

First, State law requires the Commission to approve this annexation if it agrees with the staff findings related to island annexations. Simply put, the Commission has no discretion in this matter if it makes the required statutory findings.

Second, the staff has provided nearly 2,000 notices to landowners and registered voters within and surrounding the annexation areas, notifying them of the Commission's consideration. The City of San Bernardino has conducted hearings on this potential proposal, and the Councilman who represents this area has canvassed the neighborhoods on foot. To date, staff has received protest from two landowners within the area (one of which was received prior to initiation of the application) and has responded to several inquiries for information only.

The Commission also needs to be aware that a concern has been expressed regarding this proposal from the San Bernardino County Fire Agency (copy included as Attachment #4). This agency's concern relates to the impacts of funding reductions from the detachment of County Service Area 38 and County Fire in general, as well as the continuing costs to contract with the City of San Bernardino for fire protection for all the San Bernardino islands, not specifically these three islands. Currently, County Service Area 38 contracts with the City of San Bernardino to provide fire protection and paramedic services within the 12 islands of unincorporated territory within the City's sphere of influence. This contract is scheduled for renewal at the beginning of the new fiscal year and County fire personnel wants to be assured that the transferred responsibilities and revenues would be acknowledged during contract negotiations. It is the staff's understanding that this concern has been expressed to the City of San Bernardino Fire Chief and administration, and will be an element of the upcoming contract negotiations.

In addition, the question of the impacts on fire revenues through annexations to the various cities in the County will be part of the service review currently held in abeyance awaiting completion of the County's related fire studies. The staff understands that a consultant has been working with County Fire to review its service and financial positions and that a final report is anticipated toward the end of this fiscal year. LAFCO

staff concurs with the need to address these concerns as the cumulative effects of these types of changes countywide could be significant on the property tax funding for County fire protection services.

While taking note of these concerns, it is the staff's view that the Commission has no discretion on the annexation issue presented by LAFCO 2915 based upon the following findings:

**MANDATORY ISLAND ANNEXATION FINDINGS:**

The following findings are required by Government Code Section 56375.3 for island annexations:

- Each of the study areas is less than 75 acres, and consists of the entire island of unincorporated territory.
- The study areas are entirely surrounded by the City of San Bernardino and are within the City of San Bernardino sphere of influence.
- The study areas are substantially developed or developing, based on findings that there is the availability of public services, there is the presence of public improvements in the area, and there are physical improvements on many, if not most, of the properties.
- There is no prime agricultural land within the study areas.
- The study areas have benefited, and will benefit, from the availability of municipal services from the City of San Bernardino.

Staff suggests that, in its view, these findings are clear; therefore, the Commission is required by Government Code Section 56375 (a) to approve this proposal.

**FINDINGS:**

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that the study areas are legally inhabited, with the following determination as to the number of voters as of February 11, 2003:

Island 1	206 Voters
----------	------------

Island 2	158 Voters
Island 3	32 Voters

2. The study areas are within the sphere of influence assigned the City of San Bernardino.

3. The County Assessor's Office has determined that the assessed valuation of land and improvements for the entire area is \$26,517,360 divided as follows:

Island 1	\$3,243,541 Land \$11,723,603 Improvements
----------	---

Island 2	\$2,139,727 Land \$7,985,856 Improvements
----------	--

Island 3	\$435,284 Land \$989,349 Improvements
----------	--

4. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation within the study areas. In addition, individual notice has been provided to registered voters and landowners within the reorganization area, and to registered voters and landowners located within roughly 1,350 feet of the exterior boundary of the reorganization site.
5. The City of San Bernardino pre-zoned its sphere of influence in May, 1991, when it consolidated its General Plan Land Use Map and Zoning Map. The land use designations to be applied to these areas upon annexation are:

Island 1	RS (Residential, Single Family)
Island 2	RS (Residential, Single Family)
Island 3	RU-1 (Residential Urban); RM (Residential Medium); CG-1 (Commercial General)

Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.

6. The Commission's environmental consultant, Tom Dodson and Associates, has indicated that the review of these island annexations is

statutorily exempt. This recommendation is based on the finding that the Commission's approval of this application will not have a significant effect on the environment, and is, therefore, an action that is exempt from the provision of the California Environmental Quality Act (CEQA). A copy of Mr. Dodson's response is included for the Commission's review as Attachment #5 to this report.

7. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land use. The City has submitted a "Plan for Service" as required by law which indicates that revenues are anticipated to be sufficient to provide the level of services identified through the City for such items as law enforcement, fire protection, planning, street maintenance, etc. Water and sewer service to this area is currently provided by the East Valley Water District and will not be changed following this reorganization. A copy of this Plan is included for the Commission's review as Attachment #3.

The City of San Bernardino has indicated in its application and plan for service that its 8% utility tax will **not** be extended to this area upon annexation. The staff has included a condition in the recommendation for approval that indicates that the utility tax will not be applied to these island areas.

8. The area in question is presently served by the following public agencies:

County of San Bernardino  
East Valley Resource Conservation District  
East Valley Water District  
San Bernardino Valley Municipal Water District  
San Bernardino Valley Water Conservation District  
County Service Area SL-1  
County Service Area 38 and its Improvement Zone L  
County Service Area 70  
Inland Valley Redevelopment Agency (only Island 3)

CSA SL-1, CSA 38, CSA 38 Improvement Zone L, and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries.

9. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them.
10. All notices required by state law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. Protest to this reorganization, and its island provisions, has been received.
11. The study area can benefit from the availability of municipal-level services from the City of San Bernardino.
12. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
13. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

**CONCLUSION:**

It is the staff's recommendation that LAFCO 2915 is an essentially ministerial action. The Commission is required by Government Code Section 56375(a) to approve this proposal if it makes the mandatory findings outlined in Section 56375.3. We believe those findings are easily made in this case, as follows:

- The study areas consist of 78 +/- acres total, with each island less than the 75 acre threshold as follows:

Island 1	33.38 acres
Island 2	32.76 acres
Island 3	11.62 acres

- They are each wholly surrounded by City boundaries;
- Each is within the City of San Bernardino sphere of influence;

- They are substantially developed or developing;
- They do not contain any prime agricultural land; and,
- Each can benefit from the availability of municipal services from the City of San Bernardino.

If the Commission concurs with these staff findings, then it is required to approve this proposal, regardless of any protest that might be submitted at the hearing.

State law also gives the Commission the ability to waive the protest hearing on this proposal, and staff recommends that the Commission take that action as part of its approval of this application.

KRM

Attachments:

- 1 -- Maps – Vicinity and Location
- 2 -- Government Code Section 56375 and 56375.3
- 3 -- City of San Bernardino Application and Plan for Services
- 4 -- Response from County Fire
- 5 -- Letter from Tom Dodson and Associates
- 6 -- Draft Resolution No. 2769